



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE -
DESIGNATED/ELECTED OFFICE

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Applicant: Eberhard Hildt et al

Serial No.: 09/890,752
Based on PCT/DE00/00363

International Filing Date: February 4, 2000

U.S. Filing Date: November 30, 2001

Entitled: PARTICLES FOR GENE THERAPY

Attorney Docket No.: VOS-013 (107070.120)

Examiner: Myron G. Hill

Group Art Unit: 1648

#11
Election
1/09/03

CERTIFICATION UNDER 37 CFR § 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to Commissioner for Patents, Washington, DC 20231.

December 19, 2002

Date of Signature and
of Mail Deposit

Stephanie R. Johnson

Commissioner for Patents
Washington, DC 20231

RESPONSE TO RESTRICTION REQUIREMENT
UNDER 35 U.S.C. § 121 AND 372

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Sir:

Applicants hereby respond to the Office Action dated October 21, 2002, which detailed a Restriction Requirement under 35 U.S.C. § 121 and 372. The Office Action contained a four-way Restriction Requirement.

Applicants elect the claims in Group I, claims 19-33, drawn to the first product, a particle, and the first method, a method to make the particle, with traverse.

Applicants acknowledge that the claims have been renumbered (plus 1 each) according to Rule 1.126 because the amended claims repeated claim 18. Accordingly, claims 19-51 are pending in the application.

Applicants respectfully traverse the Restriction. Applicants contend that the subject matter of Groups I-IV, including all of the pending claims, is related. All of the claims relate to a fusion protein, and a particle comprising the fusion protein, methods of preparation of such a particle, and DNA encoding such a fusion protein. Therefore, the claims relate to only one invention. Alternatively, the claims may be considered to be linked this single general inventive concept. Furthermore, search and examination of the entire application could be made without serious burden.

Therefore, Applicants respectfully request that the Examiner reconsider and withdraw the Restriction Requirement.


Further and favorable consideration of all the claims of record on the merits is respectfully requested.

Applicants enclose herewith a petition for a one month extension of time to respond to the Office Action mailed October 21, 2002. The Commissioner is authorized to debit the \$110.00 fee for this extension of time from our Deposit Account No. 08-0219.

No additional fees are believed to be due in connection with this correspondence. However, please charge any payments due or credit any overpayments to our Deposit Account No. 08-0219.

The Examiner is encouraged to telephone the undersigned in order to expedite the prosecution of the instant application.

Respectfully submitted,
HALE AND DORR LLP



Ann-Louise Kerner, Ph.D.
Reg. No. 33,523

Dated: December 19, 2002

HALE AND DORR LLP
60 State Street
Boston, MA 02109
Tel.: (617) 526-6192
Fax: (617) 526-5000